

ESTTA Tracking number: **ESTTA732476**

Filing date: **03/09/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	The Wonderful Company
Granted to Date of previous extension	03/20/2016
Address	11444 West Olympic Boulevard 10th Floor Los Angeles, CA 90064 UNITED STATES

Attorney information	Darya P. Laufer Roll Law Group PC 11444 West Olympic Boulevard 7th Floor Los Angeles, CA 90064 UNITED STATES darya.laufer@roll.com, ipdocketing@roll.com Phone:310-966-8824
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### Applicant Information

Application No	86622167	Publication date	09/22/2015
Opposition Filing Date	03/09/2016	Opposition Period Ends	03/20/2016
Applicant	Drink Up LLC 16 West 16th Street New York, NY 10011 UNITED STATES		


### Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: chocolate-based beverages; coffee-based beverages; cocoa; teas; tea-based beverages; aromatic and herbal teas; fruit teas; decaffeinated teas; tea bags
Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: aerated water; carbonated water; drinking water; spring water; table water; non-alcoholic flavored water; non-alcoholic fruit-infused water; fruit juices; energy drinks; sports drinks
Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: retail and wholesale store services featuring a variety of beverages; mail order, catalog and online ordering services featuring a variety of beverages

### Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution by blurring	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85642778	Application Date	06/04/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	POM WONDERFUL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 0 First Use In Commerce: 0            Processed nuts; snack mix consisting primarily of processed nuts and dried fruits; Milk shakes</p> <p>Class 030. First use: First Use: 0 First Use In Commerce: 0            Snack mix consisting primarily of candies, sweets, candy bars, and cereal based snack foods; beverages made of coffee; beverages made of tea; caffeine-free coffee; coffee; candies; sweets; candy; candy bars; chocolate bars; chocolate candies; chocolate-based ready-to-eat food bars; cereal based energy bars not for use as a meal replacement; cereal-based snack foods; chewing gum; roasted, powdered, granulated coffee, or coffee in drinks; coffee-based beverage containing milk; espresso; flavored ices; flavored, sweetened gelatin desserts; flavorings for beverages; flavorings of tea; fruit ice; fruit ice bar; fruit ices; fruit sauces excluding cranberry and apple sauce; fruit teas; grain-based beverages; grain-based food beverages; granola-based snack bars; green tea; herbal tea for food purposes; ice cream; ice cream drinks; ice cream mixes; ice cream sandwiches; ice milk bars; iced tea; instant coffee; lollipops; milk chocolate; muffin mixes; muffins; non-medicated lozenges; pancake mixes; pancake syrup; pastries; prepared cocoa and cocoa-based beverages; prepared coffee and coffee-based beverages; processed cereals; processed cereal-based food to be used as a breakfast food, snack food or ingredient for making other foods; ready to eat, cereal derived food bars; salad dressings; salad sauces; snack food chews made primarily from brown rice syrup; snack mix consisting primarily of crackers, pretzels, and/or popped popcorn; sugarfree chewing gum; sugarfree sweets; sugarless candies; sugarless chewing gum; sugarless sweets; sugar-free chewing gum; tea; tea bags; tea for infusions; tea substitutes; tea-based beverages with fruit flavoring; and toffees</p>		


  

U.S. Registration No.	2864641	Application Date	08/04/2003
Registration Date	07/20/2004	Foreign Priority Date	NONE
Word Mark	POM WONDERFUL		

Design Mark	
Description of Mark	THE MARK CONTAINS THE WORDS POM WONDERFUL, WITH A HEART DESIGN IN PLACE OF THE LETTER "O" IN THE WORD "POM".
Goods/Services	Class 031. First use: First Use: 2001/10/15 First Use In Commerce: 2001/10/15 FRESH FRUITS Class 032. First use: First Use: 2002/09/16 First Use In Commerce: 2003/01/13 FRUIT JUICES and FRUIT JUICE CONCENTRATES

U.S. Registration No.	2780314	Application Date	12/11/2001
Registration Date	11/04/2003	Foreign Priority Date	NONE

Word Mark	POM WONDERFUL
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Design Mark	
Description of Mark	The mark contains the word "POM", and the word "WONDERFUL" in red, the same redshade of which is also within the heartof the "POM".
Goods/Services	Class 031. First use: First Use: 2001/10/15 First Use In Commerce: 2001/10/15 FRESH FRUITS Class 032. First use: First Use: 2001/10/15 First Use In Commerce: 2001/10/15 FRUIT JUICES AND FRUIT JUICE CONCENTRATES


U.S. Registration No.	4311569	Application Date	01/11/2012
Registration Date	04/02/2013	Foreign Priority Date	NONE
Word Mark	WONDERFUL BRANDS		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2011/10/20 First Use In Commerce: 2011/10/20 Product merchandising; inventory and shelf arrangement, namely, replenishing and resetting products for sale; procuring and negotiating contracts for others, for the purchase and sale of products; product sampling and demonstration; promoting the products of others, namely, retailers

U.S. Registration No.	4311571	Application Date	01/11/2012
Registration Date	04/02/2013	Foreign Priority Date	NONE
Word Mark	WONDERFUL BRANDS		
Design Mark			
Description of Mark	The mark consists of the words "Wonderful" and "Brands" with a heart design in place of the letter "o" in the word "Wonderful".		
Goods/Services	Class 035. First use: First Use: 2011/10/20 First Use In Commerce: 2011/10/20 Product merchandising; inventory and shelf arrangement, namely, replenishing and resetting products for sale; procuring and negotiating contracts for others, for the purchase and sale of products; product sampling and demonstration; promoting the products of others, namely, retailers		

U.S. Registration No.	4552106	Application Date	08/12/2011
Registration Date	06/17/2014	Foreign Priority Date	NONE
Word Mark	WONDERFUL		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 031. First use: First Use: 2013/10/25 First Use In Commerce: 2013/10/25 Fresh citrus fruits

U.S. Registration No.	4552134	Application Date	10/17/2011
Registration Date	06/17/2014	Foreign Priority Date	NONE
Word Mark	WONDERFUL		
Design Mark			
Description of Mark	The mark consists of the word "WONDERFUL" with a heart design in place of the letter "O".		
Goods/Services	Class 031. First use: First Use: 2013/10/25 First Use In Commerce: 2013/10/25 Fresh citrus fruits		

U.S. Registration No.	2640835	Application Date	04/19/2001
Registration Date	10/22/2002	Foreign Priority Date	NONE
Word Mark	POM WONDERFUL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 2002/04/11 First Use In Commerce: 2002/04/11 FRESH FRUITS		

U.S. Registration No.	4788641	Application Date	06/30/2014
Registration Date	08/11/2015	Foreign Priority Date	NONE
Word Mark	WONDERFUL SWEET SCARLETTS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 2014/01/15 First Use In Commerce: 2014/02/03 Fresh citrus fruits, namely, grapefruit, excluding grapes, peaches, and watermelons

U.S. Registration No.	4788640	Application Date	06/30/2014
Registration Date	08/11/2015	Foreign Priority Date	NONE

Word Mark	WONDERFUL SWEET SCARLETTS
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Design Mark	 <p>The logo consists of a black and white illustration of a smiling young woman wearing a hat and a bow in her hair. She is positioned in front of a shaded circle. To the left of the woman, the words 'Wonderful' and 'SWEET' are written in a sans-serif font. Below the woman, the word 'Scarletts' is written in a large, stylized, cursive script font.</p>
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Description of Mark	The mark consists of stylized words "WONDERFUL SWEET SCARLETTS" with an image of a smiling young woman with a bow in her hair and wearing a hat. The woman's photo is superimposed on a shaded circle. The wording "WONDERFUL SWEET" is to the left of the woman and "SCARLETTS" is below the woman. A heart design is in place of the letter "o" in the word "WONDERFUL".
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Goods/Services	Class 031. First use: First Use: 2014/01/15 First Use In Commerce: 2014/02/03 Fresh citrus fruits, namely, grapefruit, excluding grapes, peaches, and watermelons
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U.S. Application No.	86223721	Application Date	03/17/2014
Registration Date	NONE	Foreign Priority Date	NONE


Word Mark	WONDERFUL SCARLETTS
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 0 First Use In Commerce: 0 fresh citrus fruits, namely, grapefruit

U.S. Registration No.	3907814	Application Date	06/07/2010
Registration Date	01/18/2011	Foreign Priority Date	NONE
Word Mark	WONDERFUL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 2010/05/15 First Use In Commerce: 2010/05/15 Fresh nuts; Raw nuts; Unprocessed nuts		


U.S. Registration No.	3907815	Application Date	06/07/2010
Registration Date	01/18/2011	Foreign Priority Date	NONE
Word Mark	WONDERFUL		
Design Mark			
Description of Mark	The mark consists of the word "WONDERFUL" with a heart in place of the letter "O". .		
Goods/Services	Class 031. First use: First Use: 2010/05/15 First Use In Commerce: 2010/05/15 Fresh nuts; Raw nuts; Unprocessed nuts		

U.S. Registration No.	3463342	Application Date	02/23/2007
Registration Date	07/08/2008	Foreign Priority Date	NONE
Word Mark	WONDERFUL PISTACHIOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2007/05/17 First Use In Commerce: 2007/05/17 Processed nuts		

U.S. Registration No.	3784763	Application Date	10/22/2009
Registration Date	05/04/2010	Foreign Priority Date	NONE
Word Mark	WONDERFUL		
Design Mark			
Description of Mark	The mark consists of the word "WONDERFUL" with a heart in place of the letter "O".		
Goods/Services	Class 029. First use: First Use: 2009/09/21 First Use In Commerce: 2009/09/21 Processed nuts		

U.S. Registration No.	4307930	Application Date	04/04/2012
Registration Date	03/26/2013	Foreign Priority Date	NONE
Word Mark	WONDERFUL ALMONDS		



Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 Processed nuts Class 031. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 Raw natural nuts

U.S. Registration No.	3882294	Application Date	10/22/2009
Registration Date	11/30/2010	Foreign Priority Date	NONE


Word Mark	WONDERFUL PISTACHIOS
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Design Mark	
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Description of Mark	The mark consists of product packaging for the goods having a rectangular shape with semi-circular curved sides. The word "WONDERFUL" with a design of a "heart" in place of the letter "o" appears across the top of the packaging and the word "PISTACHIOS" appears vertically in the middle of the packaging.
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Goods/Services	Class 029. First use: First Use: 2009/09/21 First Use In Commerce: 2009/09/21 Processed nuts
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U.S. Registration No.	4307923	Application Date	04/02/2012
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Registration Date	03/26/2013	Foreign Priority Date	NONE
Word Mark	WONDERFUL ALMONDS		
Design Mark			
Description of Mark	The mark consists of product packaging for the goods having a rectangular shapewith semi-circular curved sides. The word "WONDERFUL" with a design of a "heart" in place of the letter "o" appears across the top of the packaging and the word "ALMONDS" appears vertically in the middle of the packaging.		
Goods/Services	Class 029. First use: First Use: 2012/02/18 First Use In Commerce: 2012/02/18 Processed nuts Class 031. First use: First Use: 2012/02/18 First Use In Commerce: 2012/02/18 Raw natural nuts		

U.S. Application No.	85755784	Application Date	10/16/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WONDERFUL		
Design Mark			
Description of Mark	The mark consists of the word "WONDERFUL" with a heart design in place of the letter "O".		
Goods/Services	Class 029. First use: First Use: 0 First Use In Commerce: 0 Processed vegetables and fruits Class 031. First use: First Use: 0 First Use In Commerce: 0 Fresh fruit and vegetables		

U.S. Registration No.	4739683	Application Date	06/04/2012
Registration Date	05/19/2015	Foreign Priority Date	NONE
Word Mark	POM WONDERFUL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2011/07/00 First Use In Commerce: 2011/07/00 Dried fruits		

U.S. Registration No.	4546048	Application Date	10/29/2012
Registration Date	06/10/2014	Foreign Priority Date	NONE
Word Mark	WONDERFUL PISTACHIOS		
Design Mark			
Description of Mark	<p>The mark consists of black product packaging having a rectangular shape with transparent semi-circular curved sides, the word "WONDERFUL" in white with a design of a heart in place of the letter "O" appears across the top of the packaging and the word "PISTACHIOS" in green appears vertically in the middle of the packaging, which is rising up from a tan open pistachio shell. The gray shading is not claimed as part of the mark.</p>		

Goods/Services	Class 029. First use: First Use: 2009/09/21 First Use In Commerce: 2009/09/21 Processed nuts
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	POM POMS WONDERFUL		
Goods/Services	Fresh pomegranate arils		

Attachments	85642778#TMSN.png( bytes ) 76534468#TMSN.png( bytes ) 76347919#TMSN.png( bytes ) 85514410#TMSN.png( bytes ) 85514433#TMSN.png( bytes ) 85396734#TMSN.png( bytes ) 85449191#TMSN.png( bytes ) 76244362#TMSN.png( bytes ) 86325020#TMSN.png( bytes ) 86325011#TMSN.png( bytes ) 86223721#TMSN.png( bytes ) 85056771#TMSN.png( bytes ) 85056772#TMSN.png( bytes ) 77114811#TMSN.png( bytes ) 77855511#TMSN.png( bytes ) 85589585#TMSN.png( bytes ) 77855518#TMSN.png( bytes ) 85586578#TMSN.png( bytes ) 85755784#TMSN.png( bytes ) 85975947#TMSN.png( bytes ) 85766463#TMSN.png( bytes ) NOO - Wonderwell.pdf(101460 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Darya P. Laufer/
Name	Darya P. Laufer
Date	03/09/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

The Wonderful Company LLC	)	Opposition No.: _____
	)	
Opposer,	)	Mark: WONDERWELL
	)	
v.	)	Application Ser. No.: 86622167
	)	
Drink Up LLC	)	Published in the <i>Official Gazette</i> on
	)	September 22, 2015
	)	
Applicant.	)	<b>NOTICE OF OPPOSITION</b>
	)	
	)	
	)	

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The Wonderful Company LLC, a Delaware limited liability company located and doing business at 11444 West Olympic Blvd., Los Angeles, CA 90064 (“TWC”), believes it will be damaged by the registration of the trademark WONDERWELL, Application Serial No. 86622167, (the “WONDERWELL Application” or the “WONDERWELL Mark”) in Classes 30, 32, and 35 for chocolate-based beverages; coffee-based beverages; cocoa; teas; tea-based beverages; aromatic and herbal teas; fruit teas; decaffeinated teas; tea bags in Class 30, aerated water; carbonated water; drinking water; spring water; table water; non-alcoholic flavored water; non-alcoholic fruit-infused water; fruit juices; energy drinks; sports drinks in Class 32, and retail and wholesale store services featuring a variety of beverages; mail order; and catalog and online ordering services featuring a variety of beverages in Class 35 (“Applicant’s Goods”), filed on May 7, 2015 by Drink Up LLC, a New York limited liability company, with the address 16 West 16th Street, New York, NY 10011 (“Applicant”), and hereby opposes the same.

As grounds for this Opposition, TWC alleges:

1. TWC is a privately held global company dedicated to growing, harvesting, packaging and marketing high-quality, healthy and iconic brands of fruit, nuts, and juice, owning such brands as POM Wonderful® pomegranate juice and fresh pomegranates, Wonderful® Halos™ mandarins, Wonderful® Sweet Scarletts® grapefruit, Wonderful Pistachios®, among others.

2. TWC owns and, through licensing relationships with its affiliates and other companies with whom it is under common control (collectively, the “Wonderful Family”), commercially uses several trademarks comprising of or containing WONDERFUL on a variety of consumable products including fruit juice, fresh fruit and nuts (the “WONDERFUL® Marks”).

3. TWC is the owner of numerous United States trademark registrations and applications comprising of, or containing, WONDERFUL in multiple International Classes.

4. For instance, in International Classes 30, 32, and 35, TWC’s trademark registrations and applications include:

TRADEMARK	APPLICATION/ REGISTRATION	CLASS and GOODS
POM WONDERFUL	Application No. 85642778	Class 30 for beverages made of tea; iced tea; tea; tea-based beverages with fruit flavoring; fruit teas; green tea; flavorings of tea
POM WONDERFUL & Design	Registration No. 2864641	Class 32 for fruit juices and fruit juice concentrates.
POM WONDERFUL & Design	Registration No. 2780314	Class 32 for fruit juices and fruit juice concentrates
WONDERFUL BRANDS	Registration No. 4311569	Class 35 for product merchandising; inventory and shelf arrangement,

		namely, replenishing and resetting products for sale; procuring and negotiating contracts for others, for the purchase and sale of products; product sampling and demonstration; promoting the products of others, namely, retailers
WONDERFUL BRANDS & Design	Registration No. 4311571	Class 35 for product merchandising; inventory and shelf arrangement, namely, replenishing and resetting products for sale; procuring and negotiating contracts for others, for the purchase and sale of products; product sampling and demonstration; promoting the products of others, namely, retailers

5. In other International Classes for consumable goods, TWC's trademark registrations and applications include:

TRADEMARK	APPLICATION / REGISTRATION	CLASS and GOODS
WONDERFUL	Registration No. 4552106	Class 31 for fresh citrus fruits
WONDERFUL & Design	Registration No. 4552134	Class 31 for fresh citrus fruits

POM WONDERFUL	Registration No. 2640835	Class 31 for fresh fruits
WONDERFUL SWEET SCARLETTS	Registration No. 4788641	Class 31 for fresh citrus fruits, namely grapefruit, excluding grapes, peaches and watermelons
WONDERFUL SWEET SCARLETTS & Design	Registration No. 4788640	Class 31 for fresh citrus fruits, namely grapefruit, excluding grapes, peaches and watermelons
WONDERFUL SCARLETTS	Application No. 86223721 (allowed)	Class 31 for fresh citrus fruits, namely grapefruit
WONDERFUL	Registration No. 3907814	Class 31 for fresh nuts; raw nuts; unprocessed nuts
WONDERFUL & Design	Registration No. 3907815	Class 31 for fresh nuts; raw nuts; unprocessed nuts
WONDERFUL PISTACHIOS	Registration No. 3463342	Class 29 for processed nuts
WONDERFUL & Design	Registration No. 3784763	Class 29 for processed nuts
WONDERFUL ALMONDS	Registration No. 4307930	Class 29 for processed nuts; Class 31 for raw natural nuts
WONDERFUL PISTACHIOS & Design	Registration No. 3882294	Class 29 for processed nuts
WONDERFUL ALMONDS PACKAGING & Design	Registration No. 4307923	Class 29 for processed nuts; Class 31 for raw natural nuts
WONDERFUL & Design	Application No. 85755784 (allowed)	Class 29 for processed vegetables and fruit



POM WONDERFUL	Registration No. 4739683	Class 29 for dried fruits
WONDERFUL PISTACHIOS & Design	Registration No. 4546048	Class 29 for processed nuts
POM POMS WONDERFUL	Common Law	Fresh pomegranate arils

6. Any use by Applicant of the WONDERWELL Mark on Applicant's Goods is without TWC's consent or permission.

7. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the WONDERWELL Mark in the United States or claimed a priority date in the United States prior to the May 7, 2015 filing date of the WONDERWELL Application.

8. Opposer timely filed a Request for Extension of Time to Oppose the Application with the Trademark Trial and Appeal Board on October 6, 2015 and an additional Request for Extension of Time to Oppose Upon Consent. Opposer's requests were granted. An opposition to the Application must be filed by March 20, 2016. Therefore, this Notice of Opposition is being timely filed.

#### **COUNT I – LIKELIHOOD OF CONFUSION**

9. TWC incorporates paragraphs 1 through 8 above herein by reference.

10. The WONDERWELL Mark so closely resembles the WONDERFUL Marks as to be likely, when used on or in connection with Applicant's Goods, to cause confusion, to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), as amended. The WONDERWELL Mark also conveys the same commercial impression as the WONDERFUL Marks.

11. Applicant's Goods are identical, similar and/or related to the goods used in connection with the WONDERFUL Marks. Applicant's proposed use and registration of the WONDERWELL Mark in connection with the Applicant's Goods is likely to cause confusion, deception and/or mistake among the relevant public.

12. The purchasing public is likely to be led to believe that goods bearing the WONDERWELL Mark emanate from or are approved, licensed, sponsored by, or in some other way legitimately connected with or affiliated with Opposer, or that Applicant and its business are owned by or are affiliated with Opposer and its business.

13. If Applicant is permitted to use the WONDERWELL Mark as specified in the Application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between the WONDERWELL Mark and the WONDERFUL Marks. Consumers familiar with the WONDERFUL Marks would be likely to believe Applicant's goods are provided by Opposer or provided with Opposer's authorization or approval. Furthermore, any defect, objection or fault found with Applicant's goods sold under the WONDERWELL Mark would necessarily injure Opposer's reputation and the goodwill Opposer has established in the WONDERFUL Marks.

## **COUNT II – DILUTION**

14. TWC incorporates paragraphs 1 through 13 above herein by reference.

15. The Wonderful Family has been selling and marketing fresh fruit, nuts, juice and other consumable goods in connection with the WONDERFUL® Marks for many years and has built valuable goodwill associated with, and symbolized by, the WONDERFUL® Marks.

16. The Wonderful Family has sold hundreds of millions of dollars' worth of goods under the WONDERFUL® Marks.

17. The Wonderful Family has spent millions of dollars advertising and promoting its POM WONDERFUL® fruit juices, fruit teas and other fresh and processed fruit products throughout the United States, including through two series of national television commercials, sponsorship of the Morgan Spurlock film *POM Wonderful Presents: The Greatest Movie Ever Sold*, and integrated sponsorship of the most recent season of NBC's popular prime-time athletic competition show, *American Ninja Warrior*. These marketing efforts also include point-of-sale materials, in store displays, national free standing inserts, trade and print advertising, public relations and social media.

18. The Wonderful Family has spent millions of dollars marketing its WONDERFUL® Halos® mandarins, which are a top-selling mandarin brand available at major retailers throughout the United States. These marketing efforts include two series of national television commercials, in store displays and point of sale materials, social media, trade and print advertising, national free standing inserts, public relations and highly visible partnerships with celebrity spokespersons and charitable organizations including the Boys and Girls Club and Feeding America.

19. The Wonderful Family also offers WONDERFUL® Sweet Scarletts® grapefruit nationwide at major retailers. The WONDERFUL® Sweet Scarletts® brand is supported with a national, integrated marketing campaign that includes point-of-sale materials, national free standing inserts, trade and print advertising, public relations and social media.

20. The Wonderful Family has also spent millions of dollars on advertising and promotion of the WONDERFUL PISTACHIOS® and WONDERFUL ALMONDS® Marks, including a series of television advertisements for the last five years on major networks such as ABC, NBC, CBS, CNN, TNT and many others, and ads that aired during the famed NFL Super Bowl for two consecutive years. These advertisements have featured celebrities and pop culture icons including Stephen Colbert, Manny Pacquiao, "The Jersey Shore's" Snooki, Snoop Dogg, Khloe Kardashian

and the musical artist PSY. These marketing efforts also include point-of-sale materials, in store displays, national free standing inserts, trade and print advertising, public relations and social media.

21. As set forth above, the WONDERFUL® Marks have not only acquired distinctiveness and wide recognition by the general consuming public of the United States as a unique source of the premium consumable products offered by The Wonderful Family, the WONDERFUL® Marks are famous.

22. Prior to the filing date of the WONDERWELL Application, Opposer's WONDERFUL® Marks became distinctive and famous in accordance with 15 U.S.C. § 1125(c).

23. Considering the similarity between Applicant's WONDERWELL Mark and TWC's WONDERFUL® Marks, Applicant's registration of and any future use of the WONDERWELL Mark on Applicant's products is likely to cause dilution of TWC's famous WONDERFUL® Marks by impairing the distinctiveness of the WONDERFUL® Marks (blurring).

WHEREFORE, TWC respectfully requests that this Opposition be sustained and that Application Serial No. 86622167 be denied registration.

Please address all correspondence to Darya P. Laufer, Esq., Intellectual Property Counsel at Roll Law Group P.C., 11444 West Olympic Boulevard, 7<sup>th</sup> Floor, Los Angeles, CA 90064.

Respectfully Submitted,

Date: March 9, 2016

The Wonderful Company LLC

**By:** /s/ Darya P. Laufer/s/  
Darya P. Laufer, Esq.  
Danielle M. Criona, Esq.  
ROLL LAW GROUP P.C.  
11444 West Olympic Blvd., 7<sup>th</sup> Floor  
Los Angeles, CA 90064  
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darya.laufer@roll.com  
danielle.criona@roll.com  
*Attorney for Opposer*

**CERTIFICATE OF SERVICE**

I, Carla Crichlow, hereby certify that a copy of this **NOTICE OF OPPOSITION** has been served upon counsel for Applicant:

Andrew A. Gonzalez  
Gonzalez & Oberlander LLP  
445 Hamilton Ave., Suite 1102  
White Plains, NY 10601

by first class mail, postage prepaid, with a courtesy copy to the email address on file with the USPTO, gonzalez@golawny.com, on this 9th day of March 2016.

By: \_\_\_\_\_  
Carla Crichlow  
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11444 West Olympic Blvd.  
Los Angeles, CA 90064  
Tel. (310) 966-8400  
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